

AMENDED IN ASSEMBLY JANUARY 4, 2006

AMENDED IN ASSEMBLY APRIL 7, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 925

Introduced by Assembly Member Ridley-Thomas

February 18, 2005

An act to add Article ~~19~~ *10.1* (commencing with Section ~~1120~~ 926) to Chapter 1 of Part 2 of Division 1 of the Insurance Code, relating to insurer investments.

LEGISLATIVE COUNSEL'S DIGEST

AB 925, as amended, Ridley-Thomas. Insurance: community investments.

Existing law generally regulates the investments of insurers.

This bill would make findings and declarations regarding the need to promote investment by insurers in low-income and moderate-income communities. It would define "community development investments" to mean specified investments that have as their primary purpose community development benefitting California low-income or moderate-income individuals or communities, and would require each California insurer, ~~as of December 31 of each year, to have community development investments in certain amounts, except as specified. The bill would provide for the oversight and regulation of these investments by the Insurance Commissioner, and would to provide information annually to the Insurance Commissioner on its community development investments in California and require the commissioner to provide certain information on these investments to the public.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Article~~19~~ 10.1 (commencing with Section
~~1120~~ 926) is added to Chapter 1 of Part 2 of Division 1 of the
Insurance Code, to read:

Article ~~19~~: 10.1. California Insurance Community Investment
Act

~~1120.~~—

926. The Legislature finds and declares the following:

(a) Insurers are a vital and integral part of the California
economy. Insurers are one of the largest institutional sources of
capital invested or available for investment in California
businesses and affordable housing development.

Insurers' investable assets are derived, in part, from premiums
paid by California policyholders and the manner in which those
assets are invested affects the prosperity of California's
communities.

(b) Pursuant to the federal Community Reinvestment Act,
federally regulated financial institutions have a continuing and
affirmative obligation to meet the credit needs of the
communities they are chartered to serve, including low-income
and moderate-income areas. The federal act has had a positive
impact on low-income and moderate-income communities in
California by creating jobs, increasing business and real estate
lending, developing affordable housing units, and increasing
access to financial products and services in underserved markets.
Unlike financial institutions, insurers have no similar obligation
to ensure that their investments promote the overall growth and
development of low-income or moderate-income communities.

(c) Investment in low-income and moderate-income
communities in California has been insufficient, resulting in a
low level of economic vitality, substandard housing, and a
decline in the quality of life in many rural and urban areas.

There are safe and sound community development investments
available to insurers in low-income and moderate-income

1 communities that offer competitive rates of return and that would
2 not compromise the financial interests of insurance company
3 policyholders and shareholders. These investments represent
4 unmet or overlooked business opportunities in California.

5 (d) Investment by insurance companies is an important source
6 of capital for California. There is in the Department of Insurance
7 the California Organized Investment Network (COIN) that
8 facilitates investments by insurers in California's low-income
9 and moderate-income communities. The purpose of COIN is to
10 increase the level of insurance industry capital committed to safe
11 and sound community investments that benefit California's
12 low-income and moderate-income communities. Despite COIN's
13 best efforts, there has been an insufficient level of economically
14 targeted investment in California.

15 (e) There exists a for-profit insurance industry investment
16 intermediary that makes community investments in California. It
17 is a positive development that has the potential for increasing
18 insurer investments in economically targeted communities. Its
19 investments to date, however, relative to the amount of premiums
20 collected annually in California, are insufficient. Further, it only
21 represents a small portion of the entire industry admitted to do
22 business in California and there is no assurance that it will
23 increase its membership or investment portfolio.~~[PU~~
24 ~~EXTERNAL SOURCE]~~

25 (f) It is, therefore, the intent of the Legislature to encourage
26 insurance companies to make safe and sound community
27 development investments, ~~case~~ *increase* insurance underwriting
28 ~~criteria~~, and financially support community services in
29 low-income or moderate-income communities to benefit
30 low-income or moderate-income individuals. The investments
31 should include investments intended to create or retain jobs or
32 create new or expanded business opportunities, in addition to
33 developing affordable housing in various communities
34 throughout the state.~~[PU EXTERNAL SOURCE]~~

35 ~~1121. This article shall be known and may be cited as the~~
36 ~~California Insurance Community Investment Act. It shall apply~~
37 ~~to all insurers admitted to do business in California. "Safe and~~
38 ~~sound investments" means investments that are consistent with~~
39 ~~safe and sound operations. The Legislature anticipates that~~
40 ~~insurers can make community development investments that are~~

1 *safe and sound and on which insurers expect to make a profit.*
2 *Insurers are authorized and encouraged to develop and apply*
3 *flexible investment criteria for community development*
4 *investments that are consistent with safe and sound operations.*

5 ~~1122.~~

6 926.1. As used in this article, the following terms shall have
7 the following meanings:

8 (a) “Area median income” means either of the following:

9 (1) The median family income for the MSA, if a person or
10 geography is located in an MSA, or for the metropolitan division,
11 if a person or geography is located in an MSA that has been
12 subdivided into metropolitan divisions.

13 (2) The statewide nonmetropolitan median family income, if a
14 person or geography is located outside an MSA.

15 (b) “Community development investment” means a lawful
16 equity or debt investment, ~~deposit, or membership share, or an~~
17 ~~identifiable portion of a lawful equity or debt investment,~~
18 ~~deposit, or membership share or loan, or deposit obligation~~ that
19 has as its primary purpose community development benefitting
20 California low-income or moderate-income individuals or
21 communities. “Community development” includes, but is not
22 limited to, the following:

23 (1) Affordable housing, including multifamily rental housing,
24 for low-income or moderate-income individuals throughout the
25 state.

26 (2) Community services targeted to low-income or
27 moderate-income individuals.

28 (3) Promoting economic development that demonstrates
29 benefits, including, but not limited to, job creation, retention or
30 improvement, or provision of needed capital, to low-income,
31 moderate-income, or rural communities, residents, businesses, or
32 nonprofit community service organizations.

33 (4) Activities that revitalize or stabilize low-income or
34 moderate-income communities.

35 (c) “Geography” means a census tract delineated by the United
36 States Bureau of the Census in the most recent decennial census.

37 (d) “Insurer” means an admitted insurer as defined in Section
38 24, including the State Compensation Insurance Fund, and a
39 domestic fraternal benefit society as defined in Section 10990.

1 (e) “Low-income” means an individual income that is less
2 than 50 percent of the area median income, or a median family
3 income that is less than 50 percent in the case of a geography.

4 (f) “MSA” means a metropolitan statistical area as defined by
5 the Director of the Office of Management and Budget.

6 (g) “Moderate income” means an individual income that is at
7 least 50 percent but less than 80 percent of the area median
8 income, or a median family income that is at least 50 percent but
9 less than 80 percent in the case of a geography.

10 (h) “Nonmetropolitan area” means any area that is not located
11 in an MSA.

12 ~~(i) “Safe and sound investments” means investments that are~~
13 ~~consistent with safe and sound operations. The Legislature~~
14 ~~anticipates that insurers can meet the standards of this article~~
15 ~~with safe and sound investments on which insurers expect to~~
16 ~~make a profit. Insurers are authorized and encouraged to develop~~
17 ~~and apply flexible investment criteria for community~~
18 ~~development investments that are consistent with safe and sound~~
19 ~~operations.~~

20 (j) “Surplus” means any of the following, as applicable:

21 (1) ~~For insurers filing property and casualty or title insurance~~
22 ~~annual statements, the amount reported on page 4 as “Surplus as~~
23 ~~regards policyholders, Current Year” in the preceding December~~
24 ~~31st annual statement filed with the commissioner.~~

25 (2) ~~For insurers filing life, accident, and health annual~~
26 ~~statements, the amount reported on page 4 as “Capital and~~
27 ~~Surplus, Current Year” in the preceding December 31st annual~~
28 ~~statement filed with the commissioner.~~

29 (3) ~~For insurers filing fraternal annual statements, the amount~~
30 ~~reported on page 4 as “Surplus, Current Year” in the preceding~~
31 ~~December 31st annual statement filed with the commissioner.~~

32 (k) ~~“Total invested assets” means the total invested assets as~~
33 ~~reported on the preceding December 31st annual statement filed~~
34 ~~with the commissioner.~~

35 ~~1123. As of December 31 of each year, each insurer admitted~~
36 ~~to do business in California shall have community development~~
37 ~~investments as follows:~~

38 (a) ~~Insurers with a surplus of less than \$500 million shall~~
39 ~~invest not less than 1 percent of their California allocated surplus.~~

40 ~~The allocated amount is the product of the ratio of California~~

~~total direct written premium to total direct written premium multiplied by surplus, all as reported in the annual statement for the preceding year.~~

~~(b) Insurers with a surplus of \$500 million or more shall invest not less than 1 percent of California allocated invested assets. The allocated amount is the product of the ratio of California total direct written premium to total direct written premium multiplied by total invested assets, all as reported in the annual statement for the preceding year.~~

~~1124. The commissioner shall evaluate each insurer's performance in helping to meet the capital needs of low-income or moderate-income communities through community development investments in those communities.~~

~~1125. (a) Every two years, the commissioner shall assess the performance of insurers under this article by applying the investment test in Section 1124.~~

~~(b) The commissioner shall identify on the department's Internet Web site the level of insurer compliance with this article. In addition, insurers shall be identified that make investments that are innovative, responsive to community needs, not routinely provided by private investors, and have a positive impact on the economic welfare of low- and moderate-income residents and communities in urban and rural California.~~

~~(c) Insurers shall make community development investments that are consistent with safe and sound operations, and authorized in Sections 1170 to 1210, inclusive, excluding Sections 1191.1 and 1191.5.~~

~~1126. Notwithstanding any other provision of this code, an insurer shall, in order to make community development investments, be granted an increase of one-half of 1 percent in its maximum discretionary investment limits as authorized in subdivision (a) of Section 1210, if the commissioner determines that the insurer's financial condition so warrants.~~

~~1127. Pursuant to this article, each~~

~~926.2. (a) Each insurer admitted to do business in California shall provide information annually to the commissioner on its community development investment activities investments in California. This information shall be provided as part of the required filing pursuant to Sections 923 and 925.4 Section 923, or~~

1 through a department data call, or by other means as determined
2 by the commissioner.

3 ~~1128. The first reporting period under this article shall be~~
4 ~~January 1, 2006, through December 31, 2006. The required~~
5 ~~information shall be submitted to the commissioner by April 1,~~
6 ~~2007. Full compliance with the requirements of this article shall~~
7 ~~be accomplished by December 31, 2009.~~

8 ~~1129. (a)~~

9 *(b) The commissioner shall provide information on the*
10 *department's Internet Web site on insurer community*
11 *development investments. Insurers that make investments that are*
12 *innovative, responsive to community needs, not routinely*
13 *provided by private investors, or have a high degree of positive*
14 *impact on the economic welfare of low-income or*
15 *moderate-income residents or communities in urban or rural*
16 *California shall be identified.*

17 *(c) The first report under this article shall be filed with the*
18 *commissioner by April 1, 2007.*

19 *(d) The commissioner may issue bulletins and notices, or*
20 *promulgate regulations, setting forth the requirements for*
21 *implementation to implement the provisions of this article. In*
22 *connection with any of the reviews contemplated by information*
23 *provided to the commission under this article, insurers will be*
24 *subject to the provisions of Article 4 (commencing with Section*
25 *730) of this chapter.*

26 ~~(b)~~

27 *(e) The commissioner shall, by bulletin, notice, or regulation,*
28 *determine whether, and to what extent, charitable contributions*
29 *specifically targeted to community development and community*
30 *service may be provided in lieu of the investment requirements*
31 *of Section 1123.*

32 ~~(e) The commissioner may modify or waive, in whole or in~~
33 ~~part, for a specified period of time, the requirements of this~~
34 ~~article for an insurer, if either of the following is true:~~

35 ~~(1) The commissioner finds, after a financial review, that the~~
36 ~~solvency or liquidity of the insurer would be compromised by the~~
37 ~~investment requirement, or that the insurer's risk-based capital is~~
38 ~~at or below the regulatory action level.~~

- 1 ~~(2) The insurer satisfies the commissioner that good cause~~
2 ~~exists to conclude that the insurer's financial condition or market~~
3 ~~share, or another circumstance, warrants waiver.~~
4 ~~(d) are to be reported.~~
5 (f) The commissioner may recover, from the insurers that are
6 subject to this article, any costs of implementing the article.